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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,212	04/19/2004	Judith Lynn Bryan	P06724US00	2896
22885	7590	12/01/2005		
MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721			EXAMINER MARSH, STEVEN M	
			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/827,212

Applicant(s)

BRYAN ET AL.

Examiner

Steven M. Marsh

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,8-12,14-19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11,12 and 14-19 is/are allowed.
- 6) ☒ Claim(s) 1-6,8-10, 21, and 22 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the third office action for U.S. Application 10/827,212 for a Device for Supporting a Medical Apparatus filed by Judith Lynn Bryan et al. on April 19, 2004.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 16, 2005 has been entered.

#### ***Claim Rejections - 35 USC § 102***

Claims 1, 3-6, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,711,872 to Lampke. Lampke discloses a device with a base (24) mountable to a bed and a clamp (70 and 74). The clamp has opposing surfaces that can close and open (the elements 70 and 74 can be pushed apart and their resiliency will cause them to close) to hold a medical element in the closed position and release it when they are pushed open. There is a rod (48 and 50) extending between the base and the clamp and the base could slide in relation to the bed or pivot (depending on the degree to which the clamp on the base is tightened and what the base is secured to). The rod is rigid, length adjustable and pivotally connected to the base between a use

Art Unit: 3632

and non-use position. The first end of the rod is connected to the base and the second end is connected to the clamp. The rod can be pivoted between operable and inoperable positions and is hooked to the base (36 hooks against the screw 30). The rod is pivotally connected to the base at a universally pivotal connection for pivotal movement about multiple axes relative to the base (depends on how tight the screw 30 is clamped)..

### ***Claim Rejections - 35 USC § 103***

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lampke in view of U.S. Patent 5,645,335 to Brunner et al. Lampke does not disclose the base as being adhered to the bed. Brunner et al. discloses clamping and utilizing adhesive surfaces as functional equivalent means for securing (see col. 2, lines 41-43). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized an adhesive surface rather than a clamp, for the base taught by Lampke, as a simplified method of attachment because it is a functional equivalent as taught by Brunner et al.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lampke in view of U.S. Patent 6,817,046 B1 to Srour et al. Lampke does not specifically disclose a member having a foot adapted to fit beneath a bed mattress, a leg extending upwardly from the foot and an arm extending outwardly from the leg and adapted to support and position the base over the mattress. Srour et al. discloses a crib that has feet (30), legs (22 and 26) extending upwardly from the feet, and an arm (28) extending

Art Unit: 3632

outwardly from the leg (which would correspond to the part at 22 of Lampke). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized a crib such as the one taught by Srour et al., in conjunction with the device taught by Lampke, as a known type of crib.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampke in view of U.S. Patent 5,489,075 to Ible. Lampke does not disclose an articulated clamp. Ible discloses a bottle holder for fixing a bottle to an external object, with a base (18) that is connected to a tubular member at one end, with the tubular member being connected to an articulated clamp (20). The articulated clamp is designed to secure and release a baby bottle through simply actuating gripping portions (50 and 60) and a spring (34) holds the clamp halves in position. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized an articulated clamp, such as the clamp taught by Ible, in place of the clamp taught by Lampke, for the purpose of providing a clamp that can be easily operated to release and secure bottles of different sizes.

#### ***Allowable Subject Matter***

Claims 11, 12, and 14-19 allowed. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is an examiner's statement of reasons for allowance: The prior art fails to disclose a medical tool support device with a base slidably mountable to a bed with a

Art Unit: 3632

tab that slides within a slot, an articulated clamp for holding the tool, and a rod having a first end connected to the base and a second end connected to the clamp, wherein the rod is connected to the base by a hook and eye.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

Applicant's arguments filed September 16, 2005 have been fully considered but they are not persuasive. Applicant argues that the only pivotal movement is about a horizontal axis as the rod 48 swings up and down due to the spring nature of the arm. However, the arm is designed to rotate around the vertical axis by loosening the screw 34 and therefore is capable of pivotal movement about multiple axes relative to the base. Applicant also argues that Lampke fails to disclose a "universal" pivotal connection. However, the connection at 30 and 32 could be described as "universal".

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this

Art Unit: 3632

application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

*Shm*

Steven M. Marsh

November 28, 2005

*Robert P. Olszewski* 11/28/05  
ROBERT P. OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600